

#7

Late Backup

Zoning Case No. C14-2009-0151

RESTRICTIVE COVENANT

OWNER: Shoal Creek Walk, Ltd., a Texas limited partnership

ADDRESS: 601 North Lamar Blvd., Suite 301, Austin, Texas 78703

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 2.6 acre tract of land, more or less, being a portion of Lots 1-3 Block 5, Subdivision of Raymond Plateau, Outlot 11, Division Z, City of Austin, and a 4,940 square feet tract of land being a partial vacation of the Bowie Street right-of-way, the tracts of land being more particularly described by metes and bounds in Exhibits "A" and "B" incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more), of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. All residential and commercial development shall comply with Austin Energy Green Building Program (GBP) for a minimum two-star rating.
2. The Owner shall design and construct streetscape improvements in full compliance with the City of Austin Great Streets design criteria as it exists May 2010. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Planning and Development Review Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.
3. Green roofs. At least 20,000 square feet of green roof design shall be provided as a means to improve the quality of the air, reduce stormwater runoff and improve energy efficiency of the structure beneath. The green roof system shall be designed according to City approved requirements and standards.

4. Open Space. If building development on the Property exceeds 482,687 square feet of gross leasable area, the Owner/Developer shall provide the following:

At least thirty thousand (30,000) square feet of the total development on the Property shall be provided as green and/or open space (hardscape and/or landscape) accessible for public use. At least 5,000 square feet of green/open space shall be along Shoal Creek.

5. Bowie Street Bike Lane.

- a) Prior to issuance of a certificate of occupancy for any phase of the project, Owner/Developer shall design and install a five foot monolithic curb bicycle lane on the east side of Bowie Street between 5th and 6th Streets. Design and construction shall be as generally depicted on Exhibit "C" attached to this Agreement.

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- b) Installation shall include all necessary signing and striping, and sealcoating of any remaining and existing asphalt.

6. Shoal Creek Improvements. Development under the current approved and released site plan, SP-06-0588C, as approved on December 28, 2007, or any successor site plan approved and released for development of the Property, shall include improvements to the Shoal Creek hike and bike trail as specified under SP-06-0588C. During maintenance and construction of the trail between West 5th and West 6th streets, signs shall be provided to direct pedestrian and bike traffic to alternate routes.
7. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
8. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
9. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
10. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2010.

OWNER:

Shoal Creek Walk, Ltd.,
a Texas limited partnership

By: Shoal Creek Walk GP, L.L.C.,
a Texas limited liability company,
its general partner

By: _____
Bradley Schlosser, its Manager

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS

COUNTY OF TRAVIS

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This instrument was acknowledged before me on this the ____ day of _____, 2010, by Bradley Schlosser, Manager, of Shoal Creek Walk GP, L.L.C., a Texas limited liability company, general partner of Shoal Creek Walk, Ltd., a Texas limited partnership, on behalf of the limited partnership.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-1088
Attention: Diana Minter, Paralegal